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File Registry
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THE WHITE HOUSE
WASHINGTON

April 7, 1977

MEMORANDUM TO: Members of the Cabinet
and Regular Attendees
at Cabinet Meetings

FROM: Jack Watson *Jack*
Jane Frank *Jan*

RE: BACKGROUND ON THE PRESIDENT'S
REORGANIZATION AUTHORITY AND
REORGANIZATION PROJECT FOR THE
EXECUTIVE OFFICE OF THE PRESIDENT

We are attaching materials prepared by
OMB on the captioned subjects as background
for Bert Lance's presentation at the April 11
Cabinet meeting.

Attachments

Executive Registry

17-989

President's Reorganization Authority



April 1977



**PRESIDENT'S
REORGANIZATION
PROJECT**

WASHINGTON, D.C. 20503

IF YOU HAVE ANY QUESTIONS THAT ARE
NOT ADDRESSED IN THE ATTACHED BOOKLET,
OR IF YOU WOULD LIKE FURTHER INFORMATION
ON THE PRESIDENT'S REORGANIZATION
AUTHORITY, PLEASE CONTACT THE OFFICE OF
MANAGEMENT AND BUDGET, CONGRESSIONAL
LIAISON, AT 395-4657.

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FOR IMMEDIATE RELEASE

April 6, 1977

Office of the White House Press Secretary

THE WHITE HOUSE

STATEMENT BY THE PRESIDENT ON
SIGNING THE REORGANIZATION ACT OF 1977

Today, I am signing legislation which will permit us to submit reorganization plans to the Congress over the next three years. The reorganizations proposed in the plans will go into effect unless disapproved by Congress within 60 days.

As I have stated on many occasions, my Administration is determined to reorganize and streamline the executive branch of our government. This is one of the ways in which I plan to fulfill my commitment to the American people to make government more responsive, efficient, and open. Reorganization Authority provides one time-tested and efficient way to bring about these needed improvements.

Although the bill before me extends the Reorganization Authority for three years instead of the four-year period I requested of Congress, it does provide some flexibility that has not been available to other Presidents. For the first time in the history of the authority, we can amend a reorganization plan while it is before Congress. Previously, a sound plan could have been rejected because no one could make minor but critical changes. In addition, the Congress has removed the limitation which previously permitted a President to submit only one plan every 30 days. This means that we can move more rapidly in presenting our reorganization proposals.

The reorganization process which is set into motion today will be an open one. We intend to involve the Congress, State and local governments, and individual groups and citizens who will be affected by change. We shall depend on public awareness and participation to help us pinpoint problems, to originate ideas and solutions, and to provide reactions to various options developed by reorganization study teams which are already at work. In fact, I have asked that a study of the Executive Office of the President be undertaken immediately, and the reorganization project within the Office of Management and Budget is beginning that project now.

The reorganization program will make a searching examination of the entire Federal structure. The program will be directed by Bert Lance who shares my enthusiasm for and serious commitment to the goal of making government work better.

I do plan to give my personal attention and support to the entire reorganization program. Reorganization of the Federal Government is not a simple task. It will take energy, time, and, above all, active cooperation among the executive branch, the Congress and most importantly, the American people. We are here to serve the public, and I intend that this government will be responsive to their needs and provide services to them in as efficient a manner as possible.

FOR IMMEDIATE RELEASE

April 6, 1977

Office of the White House Press Secretary

THE WHITE HOUSE

President Carter today signed into law the Reorganization Act of 1977 and announced plans for a "searching examination of the entire government structure," starting with his own office.

The Act gives the President authority to propose to Congress reorganization plans that will take effect 60 days later unless rejected by either the House or Senate.

The President stressed that Congress, State and local officials, and private citizens and groups will be involved at every stage of the reorganization process.

Bert Lance, Director of the Office of Management and Budget which will coordinate the effort, told the press that major initiatives are already underway. One is a critical view of the 18 agencies now in the Executive Office of the President. "It is our intention to examine each element closely to insure it requires Presidential attention," Lance said.

Like the Executive Office project, reorganization recommendations will be developed by special teams of Federal employees from OMB and agencies being reorganized, as well as experts from the private sector.

Lance said that OMB, rather than an outside commission, is coordinating the effort to assure that budget and organization decisions are linked, and to provide staying power for what will be a four-year effort. "Reorganization is more than box-shuffling," Lance said, "its objectives will be to make government more open, responsive, and predictable as well as more efficient." Lance repeated the President's pledge that no Federal employees would lose their jobs because of reorganization.

"Previous reorganizations have stressed moving agencies among Cabinet departments. Ours will take a bottom-up approach," said Lance, "looking first at program and people's needs and reworking structure and process to meet those needs."

PRESIDENT'S REORGANIZATION PROJECT

The President has pledged to make government work better through substantial improvements in the organization and management of the executive branch. This document describes the reorganization program, including its objectives, its operation, and its current status.

Objectives

The Carter Administration's reorganization program is designed to make the government more responsive, open, accountable and efficient. Its major objectives follow:

- ° ensuring maximum efficiency and economy in government operations;
- ° promoting more effective planning and coordination of government activities;
- ° simplifying government so people--average citizens--can understand it;
- ° making government more responsive to citizens' needs;
- ° opening government's proceedings and documents to the public, subject only to the rights of citizens to privacy and genuine concerns of national security;
- ° reducing fragmentation, overlap, and unnecessary paperwork;
- ° demanding higher levels of performance from government officials by developing incentives for increased productivity;
- ° giving managers the authority necessary to do the job and then holding them accountable;
- ° increasing the predictability and consistency of government actions;
- ° emphasizing those tasks government can do and limiting those it cannot; and
- ° improving the relationships between Federal, State and local governments to ensure a balanced partnership and better coordination.

Method

A successful reorganization must stress two main themes: careful and comprehensive analysis, and a process which allows

the largest possible number of people to be involved. The President is aware that past reorganization efforts have promised more than they have delivered. After careful study of past efforts, the President has chosen a strategy built around the following premises:

- An Incremental Approach: Reorganization proposals will be developed and implemented over a four-year period. There is no grand design for restructuring the entire government at one time.
- Priority Planning: Initial projects have been chosen to fulfill major campaign commitments. For example, these include creation of a department of Energy, streamlining the Executive Office of the President and civil rights enforcement activities, and consolidation of consumer advocacy agencies. Later initiatives will be developed by functional area study teams which will do a comprehensive review of government agencies and programs. The result of their first effort will be an agenda of projects for future action.
- Program Analysis from the Bottom Up: Most past reorganization efforts have failed to address problems at the program level where government meets the people. This analysis will begin with identification and analysis of failures at the program level.
- Close Working Relationship with the Congress: Reorganization proposals cannot be developed in a political vacuum. The Congress and its staff are a primary source of information and advice. They will be asked to participate in the development of alternatives and recommendations.
- Public Involvement: In sharp contrast to earlier reorganization efforts, the program will include a strong public awareness component to involve, inform and win the support of important groups and the public generally. We expect the public to be of help in identifying problems, suggesting changes, and providing reaction to tentative proposals.
- Department and Agency Participation: The officials charged with implementing reorganization plans must be involved in their development. Department and agency staff will participate on project teams. Department and agency heads will review all phases of the study process and review and comment on draft recommendations.

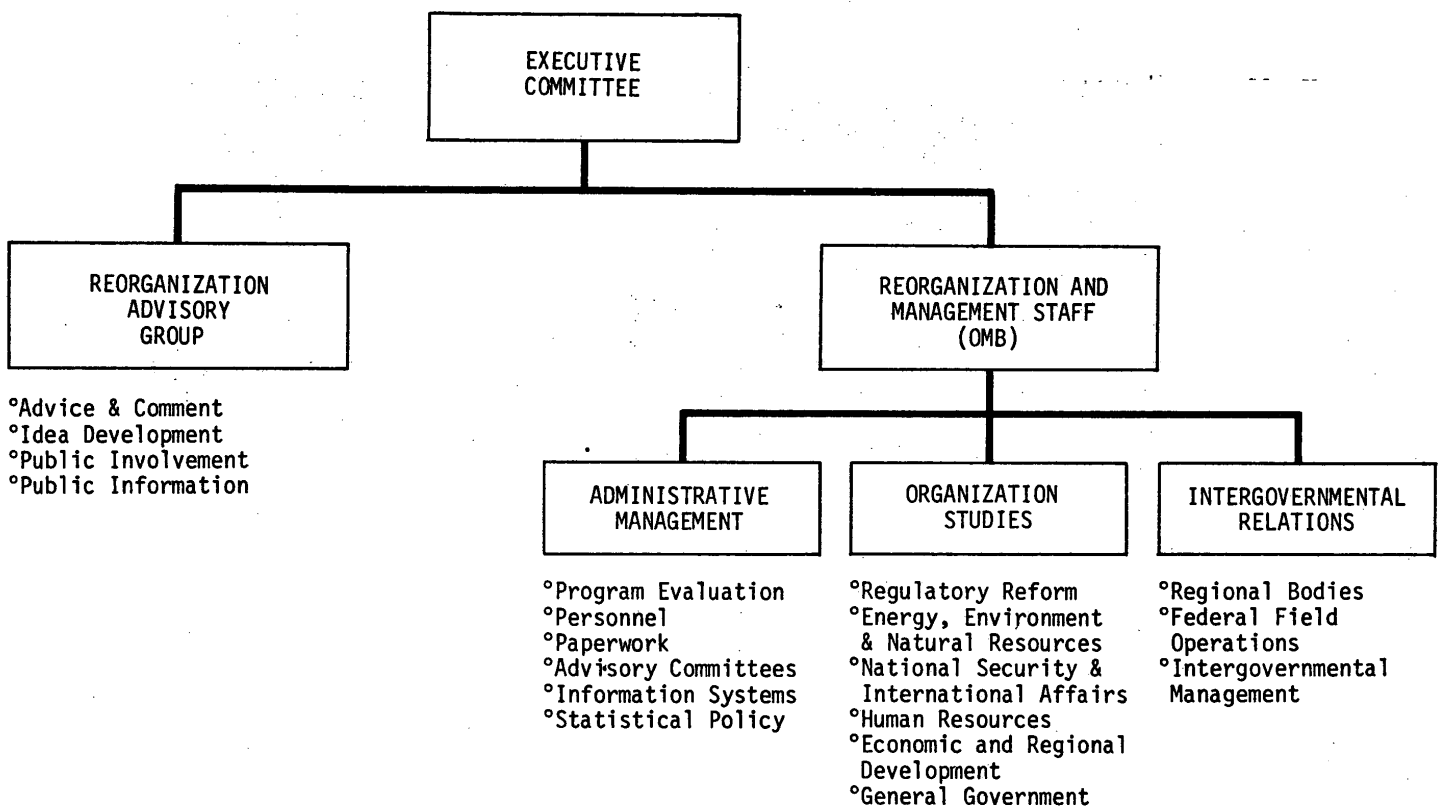
Project Organization

Executive Committee: A top level group responsible for advising the President on all aspects of the reorganization effort, including study priorities and final recommendations.

Reorganization Advisory Group: A group of individuals with a broad range of backgrounds and skills responsible for ensuring public involvement, developing ideas, and providing independent advice.

Reorganization and Management Staff: An OMB staff consisting of careerists and temporary employees recruited for the life of the project who are responsible for conducting reorganization studies, including analysis, preparation of options and recommendations, and follow-through with the Congress. The core staff will be supplemented by borrowing agency employees, State and local government employees.

REORGANIZATION STAFFING STRUCTURE



April 6, 1977

QUESTIONS AND ANSWERS ON
THE PRESIDENT'S REORGANIZATION PROJECT

- Q. How will you approach reorganizing the government?
- A. Three main themes distinguish our approach to reorganizing the government:
- A step-by-step incremental process: We will carry out reorganization by studying and implementing changes through separate but related projects over a four-year period.
 - A bottom-up perspective: In most cases, our analysis will begin where the government meets the people - at the program level. Where failures in programs have organizational remedies, we will act. Simply shuffling boxes at the top will not achieve the kind of meaningful change promised by the President.
 - An open process: To be effective, reorganization proposals should not be developed in secret. We will involve the Congress, Federal employees, and the people in pinpointing problems and developing recommendations.
- Q. How will your staff proceed with the reorganization effort?
- A. Our organization studies staff will be grouped by six functional areas: National Security and International Affairs, Human Resources, Economic Development, Natural Resources and Energy, Regulatory Reform, and General Government. We will also deal with administrative management and intergovernmental relations issues. The initial step in our process will be agenda setting, followed by conduct of the studies and implementation.
- Q. Since you can't abolish Departments or independent regulatory commissions under the reorganization act, are they going to be excluded from your studies?
- A. No. The authority signed into law today is only one tool available to the reorganization project. We also intend to apply management systems like zero-base budgeting and "sunset" to all programs. Many changes in departments can be effected by administrative action. Finally, we shall go to Congress with specific legislative proposals if they are needed as we have already done with the Department of Energy.

- Q. How does the prohibition on eliminating statutory programs by Reorganization Plans affect the project.
- A. It has no impact. Historically, few statutory programs have ever been abolished by Reorganization Plan. Statutory programs normally change through legislation and the normal authorization - appropriation process.
- Q. Is there a relationship between the reorganization project and zero-base budgeting?
- A. Definitely. They share the same bottom-up rationale. We anticipate that many organizational issues will surface as program managers start to analyze and justify functions in zero-base budget development. The simplification of structure and elimination of unneeded and unproductive programs will be the end products of these complementary thrusts.
- Q. Aren't there legal questions on the constitutionality of the one-house veto provision of the Reorganization Act of 1977.
- A. The Attorney General has advised the President that the reorganization plan process is constitutional. Presidents Truman, Eisenhower, Kennedy, and Nixon utilized this authority containing a one-house veto provision and no serious constitutional challenge was made. Moreover, the legislative veto does preserve the relative powers of President and Congress since no plan would become effective if either House objects.
- Q. Will the Administration's commitments to openness extend to the reorganization project?
- A. Hopefully, we have learned from the failure of previous reorganization proposals which were developed in a political vacuum or with only superficial outside input. A hallmark of our approach will be consultation with Congress, affected interest groups, agency personnel, State and local government officials, and the public. There will be a strong public awareness and involvement component, conducted primarily by the President's Reorganization Advisory Group, which we feel is essential to the integrity of the reorganization effort.
- Q. Is the public going to be able to participate in the development of reorganization proposals?

A. Public hearings and the solicitation of views of affected groups will be part of the program. A public awareness staff in the project will be responsible for developing channels of two-way communication at each stage of the process. The Reorganization Advisory Group will be responsible for making sure that adequate communication is taking place.

Q. Won't an "open" reorganization process which involves the Congress and special interest groups tip your hand and stir up more opposition to your plans?

A. No. Opposition is most likely when Congress and interest groups are surprised by plans to which they have not contributed. An open process, by giving all interests a chance to be heard, should result in greater support in the long run.

Q. Isn't 60 days a very short time for Congressional review?

A. The normal time period is 60 days, but we do not anticipate sending up a plan without extensive advance consultation with the Congress and all affected parties.

Q. Will your reorganization address only structural issues?

A. We will address more than changes on an organization chart. Our efforts will include coordinated reforms in structure, cost control, productivity, budgeting, personnel policy, and intergovernmental relations.

Q. What programs or areas have you targeted for reorganization?

A. We have no master list or hidden agenda. The President has, however, identified several areas for early action, including energy, oil spill pollution control, consumer affairs, civil rights, advisory committees, and the Executive Office. We will choose our next projects after a comprehensive review of the Federal Government. This review will be conducted by six study teams, each of which will be responsible for specific functional areas of the government.

Q. Do you support creation of a Department of Education? Is the Veterans Administration an early target of reorganization?

A. We have not begun the reorganization with preconceived notions. Answers to questions on specific agencies must await further analysis.

Q. Will the reorganization project treat the civil service system as a given?

A. No. Effective management of Federal programs is not possible if the rigidities of the existing system go unchallenged. The Reorganization Project, working jointly with the chairman of the Civil Service Commission, will conduct a major study of the civil service system.

Q. How will the reorganization project affect the average citizen?

A. In several ways. He or she can anticipate that the efficiency and quality of government service will be improved. Red tape and unnecessary reporting will be reduced. Simplification of government will mean that citizens can more easily understand and relate to it.

Q. How will the reorganization project affect the jobs of Federal employees?

A. The President has assured career employees that no one would lose his or her job or be forced to take a cut in salary or grade as a result of reorganization. When reductions in positions become necessary they will be accomplished through the normal attrition process, not by cutbacks in existing personnel.

Q. What will be the first reorganization plan you will submit and how many will you submit in 1977 and in the following two years?

A. The President has ordered a comprehensive review of his own household - the Executive Office. Its reorganization will be the subject of the first plan. The timing of future plans will become clear as our study teams complete their survey of reorganization options.

Q. What is your target date for completing the Reorganization Project?

A. We do not start out with one integrated grand design which we plan to present to Congress all at once. We will move ahead on a step-by-step, project-by-project basis staged over a four-year period. This approach also allows the Congress to have more time to study each proposal individually and permits us to gather ideas from the civil servants, interest groups, and the public.

- Q. Why has responsibility for the reorganization program been assigned to the Office of Management and Budget?
- A. By placing the reorganization project in OMB we have assured that the effort will have a strong institutional base to give it staying power over the next four years. Second, this arrangement allows us to take full advantage of the natural linkage between budget and organizational changes. It will aid the planning and implementation of the reorganization effort. Third, OMB already has a core staff of knowledgeable individuals who can help with this effort.
- Q. Isn't "Cabinet" government inconsistent with a reorganization project coordinated and directed by the Office of Management and Budget?
- A. As you know, the President selected Cabinet officers and agency heads with the utmost confidence in their ability to manage. They know what their responsibilities are, and are aware of how the President wants the reorganization process to be conducted. Central coordination and study of cross-cutting functional areas by OMB are essential and will not trespass on the clear cut responsibilities of the Secretaries. Internal department reorganization and management improvements are primarily the responsibility of the agency heads.
- Q. Do you intend to hire additional staff for reorganization and who are they?
- A. We intend to make as much use of existing personnel in OMB and the agencies as we can. We also intend to borrow people from the private sector - business, citizens groups, universities - to help us on special projects. We have requested a supplemental appropriation which will allow OMB to hire an additional 32 employees for the project. These people will be temporary for the life of the reorganization project. They will not be permanent additions to the OMB staff.
- Q. How much are all these reorganization studies going to cost?
- A. We have requested from Congress a supplemental appropriation of \$1,600,000 for FY 1977. We expect to hire 32 new temporary employees to staff the reorganization program. The budget requested for FY 1978 for the reorganization project is \$2.6 million. Additional support will,

naturally, be required and obtained on a part-time basis from current OMB staff and other government agencies. We are confident that this extra investment will be recovered many times over in greater efficiency and improved service delivery.

THE EXECUTIVE BRANCH TODAY

The following chart reflects an inventory and categorization of executive branch agencies and other governmental organizations which will be addressed by the President's Reorganization Project. It includes all Federal governmental non-judicial and non-legislative branch units which meet the following criteria. Units which:

- were statutorily created; or
- were created by Presidential Reorganization Plan or Executive order; or
- appear in the President's budget but have no specific statutory authority; or
- function with some degree of autonomy; or
- are advisory bodies to executive branch agencies or the President.

Official and non-official sources were used in compiling the list of agencies to be studied. Knowledgeable sources within and outside of government were consulted both as to content of the list and the procedure under which the list was compiled. The resultant list reflects their recommendations.

It is important to note that this categorization of organizational elements is not an exhaustive accounting of the whole Federal Government. Instead, it is the definition of the executive branch to be utilized in the reorganization process. For this purpose, the executive branch is divided into categories of agencies reporting to the President and other governmental organizations.

Examples of categories shown on the following chart include:

EXECUTIVE BRANCH AGENCIES

"Executive Office of the President," e.g., the Office of Management and Budget, the National Security Council, and the Council of Economic Advisors.

"Cabinet-Level Departments," e.g., the U.S. Department of Agriculture, Department of State, and Department of Commerce.

"Sub-Agencies" of Cabinet Departments include such units as the Soil Conservation Service in Agriculture, the Agency for International Development within State, and the Census Bureau within Commerce.

"Independent Executive Agencies" include, for instance, the Veterans Administration, the Environmental Protection Agency, and regulatory commissions such as the Federal Trade Commission.

"Sub-Agencies" of Independent Executive Agencies are the Department of Veterans Benefits in the Veterans Administration, the Office of Toxic Substances in the Environmental Protection Agency, and the Bureau of Consumer Protection in the Federal Trade Commission.

"Other Committees, Commissions and Boards" include such independent entities as the Navajo and Hopi Relocation Commission, the National Capital Planning Commission, and the Marine Mammal Commission.

"Presidential Advisory Committees" include groups like the Presidential Council on Physical Fitness and Sports and the Federal Council on Aging.

Both Cabinet-level Departments and Independent Executive Agencies also typically have multiple Advisory Committees, e.g., the Gila National Forest Grazing Advisory Board in the Department of Agriculture, and the National Drinking Water Advisory Council in the Environmental Protection Agency.

OTHER GOVERNMENTAL ORGANIZATIONS

"Interagency and Interdepartmental Committees," e.g., the Interagency Committee on Antarctica and the Interdepartmental Committee on the Status of Women.

"Wholly-Owned Government Corporations," e.g., the Legal Services Corporation and the Tennessee Valley Authority.

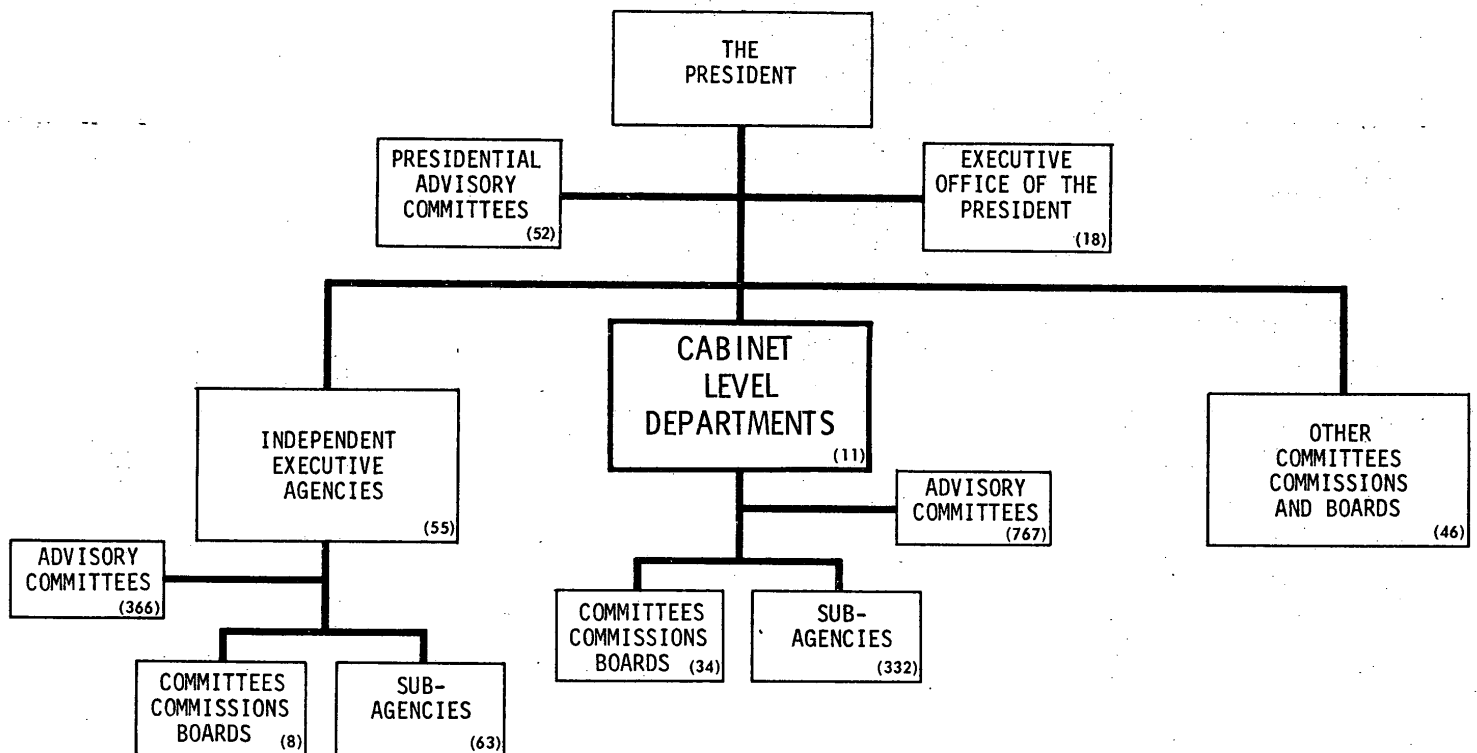
"Mixed Ownership Government Corporations," e.g., Consolidated Rail Corporation and the Rural Telephone Bank.

"Quasi-Official Organizations," e.g., the U.S. Postal Service and the National Academy of Sciences.

"International Organizations" are both bilateral (e.g., the International Boundary Commission, with Canada) and multilateral (e.g., the Pan American Health Organization).

THE EXECUTIVE BRANCH

EXECUTIVE BRANCH AGENCIES



OTHER GOVERNMENTAL ORGANIZATIONS



April 6, 1977

APPENDIX I

Ninety-fifth Congress of the United States of America

S. 626

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday, the fourth day of January,
one thousand nine hundred and seventy-seven*

An Act

To reestablish the period within which the President may transmit to the Congress plans for the reorganization of agencies of the executive branch of the Government, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Reorganization Act of 1977".

SEC. 2. Chapter 9 of title 5, United States Code, is amended to read as follows:

"Chapter 9.—EXECUTIVE REORGANIZATION

"Sec.

"901. Purpose.

"902. Definitions.

"903. Reorganization plans.

"904. Additional contents of reorganization plan.

"905. Limitations on powers.

"906. Effective date and publication of reorganization plans.

"907. Effect on other laws, pending legal proceedings, and unexpended appropriations.

"908. Rules of Senate and House of Representatives on reorganization plans.

"909. Terms of resolution.

"910. Introduction and reference of resolution.

"911. Discharge of committee considering resolution.

"912. Procedure after report or discharge of committee; debate; vote on final disapproval.

"§ 901. Purpose

"(a) The Congress declares that it is the policy of the United States—

"(1) to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;

"(2) to reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Government;

"(3) to increase the efficiency of the operations of the Government to the fullest extent practicable;

"(4) to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;

"(5) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the Government; and

"(6) to eliminate overlapping and duplication of effort.

"(b) Congress declares that the public interest demands the carrying out of the purposes of subsection (a) of this section and that the purposes may be accomplished in great measure by proceeding under this chapter, and can be accomplished more speedily thereby than by the enactment of specific legislation.

"(c) It is the intent of Congress that the President should provide appropriate means for broad citizen advice and participation in restructuring and reorganizing the executive branch.

S. 626—2

“(d) The President shall from time to time examine the organization of all agencies and shall determine what changes in such organization are necessary to carry out any policy set forth in subsection (a) of this section.

“§ 902. Definitions

“For the purpose of this chapter—

“(1) ‘agency’ means—

“(A) an Executive agency or part thereof; and

“(B) an office or officer in the executive branch; but does not include the General Accounting Office or the Comptroller General of the United States;

“(2) ‘reorganization’ means a transfer, consolidation, coordination, authorization, or abolition, referred to in section 903 of this title; and

“(3) ‘officer’ is not limited by section 2104 of this title.

“§ 903. Reorganization plans

“(a) Whenever the President, after investigation, finds that changes in the organization of agencies are necessary to carry out any policy set forth in section 901(a) of this title, he shall prepare a reorganization plan specifying the reorganizations he finds are necessary. Any plan may provide for—

“(1) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of another agency;

“(2) the abolition of all or a part of the functions of an agency, except that no enforcement function or statutory program shall be abolished by the plan;

“(3) the consolidation or coordination of the whole or a part of an agency, or of the whole or a part of the functions thereof, with the whole or a part of another agency or the functions thereof;

“(4) the consolidation or coordination of a part of an agency or the functions thereof with another part of the same agency or the functions thereof;

“(5) the authorization of an officer to delegate any of his functions; or

“(6) the abolition of the whole or a part of an agency which agency or part does not have, or on the taking effect of the reorganization plan will not have, any functions.

The President shall transmit the plan (bearing an identification number) to the Congress together with a declaration that, with respect to each reorganization included in the plan, he has found that the reorganization is necessary to carry out any policy set forth in section 901(a) of this title.

“(b) The President shall have a reorganization plan delivered to both Houses on the same day and to each House while it is in session, except that no more than three plans may be pending before the Congress at one time. In his message transmitting a reorganization plan, the President shall specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of the function. The message shall also estimate any reduction or increase in expenditures (itemized so far as practicable), and describe any improvements in management, delivery of Federal services, execution of the laws, and increases in efficiency of Government operations, which it is expected will be realized as a result of the reorganizations included in the plan.

S. 626—3

“(c) Any time during the period of thirty calendar days of continuous session of Congress after the date on which the plan is transmitted to it, but before any resolution described in section 909 has been ordered reported in either House, the President may make amendments or modifications to the plan, consistent with sections 903–905 of this title, which modifications or revisions shall thereafter be treated as a part of the reorganization plan originally transmitted and shall not affect in any way the time limits otherwise provided for in this chapter. The President may withdraw the plan any time prior to the conclusion of sixty calendar days of continuous session of Congress following the date on which the plan is submitted to Congress.

“§ 904. Additional contents of reorganization plan

“A reorganization plan transmitted by the President under section 903 of this title—

“(1) may change, in such cases as the President considers necessary, the name of an agency affected by a reorganization and the title of its head, and shall designate the name of an agency resulting from a reorganization and the title of its head;

“(2) may provide for the appointment and pay of the head and one or more officers of any agency (including an agency resulting from a consolidation or other type of reorganization) if the President finds, and in his message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are necessary;

“(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

“(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as the President considers necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

“(5) shall provide for terminating the affairs of an agency abolished.

A reorganization plan transmitted by the President containing provisions authorized by paragraph (2) of this section may provide that the head of an agency be an individual or a commission or board with more than one member. In the case of an appointment of the head of such an agency, the term of office may not be fixed at more than four years, the pay may not be at a rate in excess of that found by the President to be applicable to comparable officers in the executive branch, and if the appointment is not to a position in the competitive service, it shall be by the President, by and with the advice and consent of the Senate. Any reorganization plan transmitted by the President containing provisions required by paragraph (4) of this section shall provide for the transfer of unexpended balances only if such balances are used for the purposes for which the appropriation was originally made.

“§ 905. Limitations on powers

“(a) A reorganization plan may not provide for, and a reorganization under this chapter may not have the effect of—

“(1) creating a new executive department, abolishing or transferring an executive department or independent regulatory agency, or all the functions thereof, or consolidating two or more executive departments or two or more independent regulatory agencies, or all the functions thereof;

S. 626—4

“(2) continuing an agency beyond the period authorized by law for its existence or beyond the time when it would have terminated if the reorganization had not been made;

“(3) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;

“(4) authorizing an agency to exercise a function which is not expressly authorized by law at the time the plan is transmitted to Congress;

“(5) increasing the term of an office beyond that provided by law for the office; or

“(6) dealing with more than one logically consistent subject matter.

“(b) A provision contained in a reorganization plan may take effect only if the plan is transmitted to Congress within three years of the date of enactment of the Reorganization Act of 1977.

“§ 906. Effective date and publication of reorganization plans

“(a) Except as otherwise provided under subsection (c) of this section, a reorganization plan is effective at the end of the first period of sixty calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the sixty-day period, either House passes a resolution stating in substance that the House does not favor the reorganization plan.

“(b) For the purpose of this chapter—

“(1) continuity of session is broken only by an adjournment of Congress sine die; and

“(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of any period of time in which Congress is in continuous session.

“(c) Under provisions contained in a reorganization plan, any provision thereof may be effective at a time later than the date on which the plan otherwise is effective or, if both Houses of Congress have defeated a resolution of disapproval, may be effective at a time earlier than the expiration of the sixty-day period required by subsection (a).

“(d) A reorganization plan which is effective shall be printed (1) in the Statutes at Large in the same volume as the public laws and (2) in the Federal Register.

“§ 907. Effect on other laws, pending legal proceedings, and unexpended appropriations

“(a) A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this chapter, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed by the plan.

“(b) For the purpose of subsection (a) of this section, ‘regulation or other action’ means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

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“(c) A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, does not abate by reason of the taking effect of a reorganization plan under this chapter. On motion or supplemental petition filed at any time within twelve months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

“(d) The appropriations or portions of appropriations unexpended by reason of the operation of the chapter may not be used for any purpose, but shall revert to the Treasury.

“§ 908. Rules of Senate and House of Representatives on reorganization plans

“Sections 909 through 912 of this title are enacted by Congress—

“(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by section 909 of this title; and they supersede other rules only to the extent that they are inconsistent therewith; and

“(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

“§ 909. Terms of resolution

“For the purpose of sections 908 through 912 of this title, ‘resolution’ means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: ‘That the _____ does not favor the reorganization plan numbered _____ transmitted to the Congress by the President on _____, 19—.’, and includes such modifications and revisions as are submitted by the President under section 903(c) of this chapter. The blank spaces therein are to be filled appropriately. The term does not include a resolution which specifies more than one reorganization plan.

“§ 910. Introduction and reference of resolution

“(a) No later than the first day of session following the day on which a reorganization plan is transmitted to the House of Representatives and the Senate under section 903, a resolution, as defined in section 909, shall be introduced (by request) in the House by the chairman of the Government Operations Committee of the House, or by a Member or Members of the House designated by such chairman; and shall be introduced (by request) in the Senate by the chairman of the Governmental Affairs Committee of the Senate, or by a Member or Members of the Senate designated by such chairman.

“(b) A resolution with respect to a reorganization plan shall be referred to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be. The committee shall make its recommendations to the House of Representatives or the

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Senate, respectively, within 45 calendar days of continuous session of Congress following the date of such resolution's introduction.

“§ 911. Discharge of committee considering resolution

“If the committee to which is referred a resolution introduced pursuant to subsection (a) of section 910 (or, in the absence of such a resolution, the first resolution introduced with respect to the same reorganization plan) has not reported such resolution or identical resolution at the end of 45 calendar days of continuous session of Congress after its introduction, such committee shall be deemed to be discharged from further consideration of such resolution and such resolution shall be placed on the appropriate calendar of the House involved.

“§ 912. Procedure after report or discharge of committee; debate; vote on final disapproval

“(a) When the committee has reported, or has been deemed to be discharged (under section 911) from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. The motion shall not be subject to amendment, or to a motion to postpone, or a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

“(b) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between individuals favoring and individuals opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to shall not be in order.

“(c) Immediately following the conclusion of the debate on the resolution with respect to a reorganization plan, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final approval of the resolution shall occur.

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“(d) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.”.

Speaker of the House of Representatives.

*Vice President of the United States and
President of the Senate.*

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REORGANIZATION PLAN AUTHORITY BACKGROUND

A. Summary of Reorganization Plan Authority

(The 1949 Reorganization Act, as amended)

The Reorganization Act of 1949, as amended, requires the President to examine the organization of all agencies and to determine changes in organization that may be necessary.

It authorizes the President to submit reorganization plans to the Congress in order to accomplish those purposes enumerated in Section 901(a) of the Act, which include:

1. Promoting better execution of the laws and more effective management of the executive branch.
2. Reducing expenditures and increasing efficiency and economy.
3. Reducing the number of agencies with similar functions by consolidation or abolishment.
4. Eliminating duplication and overlapping of functions and responsibilities.

Reorganization plans transmitted to the Congress take effect after 60 calendar days of continuous session of Congress, unless either House of Congress passes a resolution of disapproval. Rules governing the consideration of reorganization plans by each House are provided for in the Act. Plans may be amended or withdrawn by the President while they are before Congress.

Reorganizations Permitted

The Reorganization Act of 1949, as amended, permits reorganization plans to provide for:

1. Transfer or consolidation of the whole or parts of an agency or its functions to another agency.
2. Abolition of an agency or some functions thereof.
3. Consolidation or coordination of a part of an agency or functions thereof with another part of the same agency or with the whole or part of another agency.
4. Abolition of the whole or part of an agency which no longer has a function.

Limitations on Reorganization

Reorganization plans may not provide for and a reorganization may not have the effect of:

1. Creating, abolishing or transferring an executive department.
2. Consolidating two or more executive departments or all of their functions.
3. Continuing an agency beyond the period authorized by law.
4. Authorizing an agency to exercise a function which is not permitted by law.
5. Increasing the term of an office beyond that provided by law.
6. Abolishing enforcement functions, independent regulatory agencies or a statutory program.

Reorganization Plans

Reorganization plans must deal with one logically consistent subject matter. A limit of three plans can be pending before Congress at any one time. Reorganization plans that take effect are published in the Federal Register and included in the Statutes at Large. There are currently no provisions for amending a plan once it has been transmitted.

A Reorganization Plan Must Include:

1. Provision for transfer or disposition of records, property, and personnel.
2. Provision for transfer of unexpended balances of appropriations considered necessary by the President.
3. Provision for terminating the affairs of an agency abolished. Special provisions are made for pending matters affected by a reorganization.
4. Identification of statutory authorities to be abolished and reduction of expenditures anticipated as the result of the plan.

The Plan May Provide For:

1. Changing the name of an existing agency affected by a reorganization.

2. Appointment and pay of a Commission or individual to head an agency or other officers therein affected by the reorganization. Agency heads and Commissioners are to be appointed for a term of not more than 4 years.

Handling of Reorganization Plans

The President shall have a reorganization plan delivered on the same day to each House while it is in session. A reorganization plan is effective after 60 calendar days of continuous session of Congress unless a resolution disapproving the reorganization is passed by majority vote in either House.

B. History

The concept of executive initiative and Congressional review of reorganization was first written into the economy measure laws of 1932 and 1933. Presidential reorganization authority enacted in 1939 and 1945 substituted the use of reorganization plans for executive orders and changed the procedures for Congressional veto.

Current Act

The most recent legislation providing reorganization authority, the Reorganization Act of 1949 (5 U.S.C. 901-913), as amended, expired on April 1, 1973 and has not been renewed by Congress. Presidential authority to submit reorganization plans was extended for 2 year periods in 1953, 1955, 1957, and 1961. The 1949 Act was extended for 1 year in 1964, for 2 years in 1969, and for 1 year and 4 months in 1971. Thus, the President has had continuous authority under the Act, as amended, except for lapses from June 1, 1959 to April 7, 1961, from June 1, 1963 to July 2, 1964, and from December 31, 1968 to April 1, 1969, and currently with the expiration on April 1, 1973. The most recent extension of the reorganization authority occurred with the passage of P.L. 92-179 on December 10, 1971, which extended the authority until April 1, 1973.

Modifications to Authority

Over the years, a number of significant modifications were made to the 1939 and 1949 Reorganization Act. The original Act (1939) required disapproval by both Houses of Congress, but the current authority permits disapproval by action of either House. From 1949 until 1964, the procedure was used to create and dismantle Cabinet-level Departments, a power no longer allowed. Other changes have required that only one plan be submitted within a 30-day period and that no new legal authorities be created through the plan mechanism.

Use of the Authority

Since passage of the 1939 Reorganization Act, a total of 109 plans have been submitted, of which 86 were implemented, 22 were rejected and one was nullified. Under the 1949 law with subsequent extensions, some 97 plans have been submitted by the President to the Congress, which allowed 78 plans to take effect. Among the recent significant creations have been the Office of Management and Budget, Office of Telecommunications Policy, National Oceanic and Atmospheric Administration, and the Environmental Protection Agency.

The Department of Health, Education, and Welfare was created by a reorganization plan and subsequent efforts to create a Department of Urban Affairs and Housing, now HUD, in 1962 led to amendment of the basic 1949 Act to prohibit the use of reorganization plan authority for reorganizing Cabinet Departments.